



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 10  
1200 Sixth Avenue  
Seattle, WA 98101

JUN 29 2000

Reply To  
Attn Of: OW-131

Michele Brown, Commissioner  
Alaska Department of Environmental Conservation  
555 Cordova Street  
Anchorage, AK 99501

Dear Ms. Brown:

Pursuant to Section (§) 303(c) of the Clean Water Act (CWA) and implementing regulations found at 40 CFR Part 131, the Environmental Protection Agency (EPA) has reviewed the revisions to the Alaska Water Quality Standards (WQS) at 18 AAC 70 that were adopted on March 25, 1999, and submitted to the EPA on April 12 1999. These revisions establish site-specific metals and turbidity criteria for Upper Cook Inlet in the vicinity of Point Woronzof.

This letter constitutes our formal notification of the results of this review. Based on our authorities under the CWA, cited above, EPA approves the site-specific metals and turbidity criteria for the Point Woronzof area of Upper Cook Inlet because these revisions are consistent with the CWA as well as EPA's policy and guidance on development of site-specific criteria.

The decision document for the adopted revisions presents a well researched technical justification for the site-specific criteria for metals and turbidity in the Upper Cook Inlet area. The site-specific area is clearly defined and the characteristics of the site that warrant development of SSC have been reasonably articulated.

The SSC for metals involve changes to the form of metal (dissolved versus total recoverable) and numeric values. The adopted revisions will implement dissolved metals criteria in the site-specific area. This approach to metals implementation conforms with EPA's metals policy (60 FR 22229). With the exception of mercury, the numeric dissolved metals criteria that have been adopted are consistent with the criteria that EPA recently published in a December 10, 1998, Federal Register Notice of "National Recommended Water Quality Criteria: Notice (63 FR 68354).

Similarly, the SSC for mercury involve changes to the form of the metal and the numeric values of the criteria. The EPA December 10, 1998 aquatic life mercury criteria are expressed as dissolved which represents a change in EPA policy for mercury. The SSC for mercury, expressed as dissolved is consistent with this new EPA approach. The marine acute aquatic life criterion for mercury is consistent with EPA's December 10, 1998, FR Notice acute criterion. The proposed marine chronic aquatic life criterion for mercury is consistent with the EPA criteria published in the National Toxics Rule (57 FR 60848).

The proposed revisions to the turbidity criterion are justified based on the high levels of glacial derived suspended sediments delivered by the rivers in the vicinity of the site-specific area. Total suspended solids data in the vicinity of the site demonstrate the need for revisions to the existing turbidity criterion. The Decision Document provides a reasonable justification for the proposed changes to the turbidity criterion.

Alaska remains in the National Toxic Rule (NTR) for aquatic life criteria for nickel (acute), selenium (acute and chronic), and zinc (acute). The NTR prohibits EPA from approving site-specific criteria for these three pollutants until the State has adopted criteria for them and EPA has approved the adopted criteria. Therefore, EPA can not approve the SSC for aquatic life acute nickel, acute and chronic selenium, and acute zinc at this time.

In a second submittal to EPA, the 1999 Triennial Review, Alaska has formally adopted the NTR criteria for the three metals specified above. Before EPA can approve the criteria in the Triennial Review submittal, EPA must complete Essential Fish Habitat (EFH) consultation and initiate Endangered Species Act (ESA) consultation. EPA is currently revising the documents for these two consultations. Once EPA has completed EFH consultation and EPA has submitted the ESA document to the Services for their review, we will be able to approve the criteria included in the Triennial Review submittal and approve the three SSC. EPA will then begin the process of removing Alaska from the NTR.

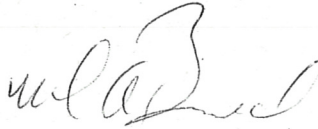
EPA approval of Alaska WQS revisions is considered a Federal action and EPA must comply with the Section 7 consultation requirements of the ESA. EPA determined that the approval of SSC would have no effect on species under the jurisdiction of the Fish and Wildlife Service. On April 4, 2000, EPA submitted to the National Marine Fisheries Service (NMFS) a Biological Evaluation that assessed the effects of the SSC on candidate Beluga whales in the site-specific area. In a letter dated June 19, 2000, the NMFS concurred with EPA's determination that approval of SSC for metals and turbidity would not likely adversely affect any threatened or endangered species under NMFS jurisdiction.


Similarly, the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) requires federal agencies to consult with NMFS on any actions authorized, funded, or undertaken by the agency that may adversely affect essential fish habitat (EFH) identified by Regional Fishery Management Councils. EPA prepared an evaluation of the effects of the SSC on EFH and determined that approval of the SSC is not likely to have an adverse effect on EFH. Although not required to do so under the Magnuson-Stevens Act, EPA provided its analysis to NMFS on April 4, 2000. In a letter dated June 19, 2000, the NMFS concurred with EPA's determination that approval of SSC for metals and turbidity would not likely adversely affect EFH.



We greatly appreciate the efforts of your staff to coordinate this action with EPA throughout the SSC development process. Please feel free to contact me at (206) 553-1261 or if you have any questions concerning this letter please contact Sally Brough, Water Quality Standards Coordinator, at (206) 553-1295.

Sincerely,

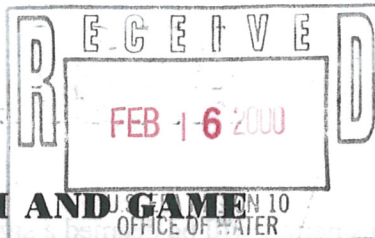


 Randall Smith,  
Director  
Office of Water

cc: Deena Henkins  
Mark Premo

ADEC - Juneau  
Anchorage Wastewater Utility

STATE OF ALASKA



TONY KNOWLES, GOVERNOR

**DEPARTMENT OF FISH AND GAME**

ANCHORAGE 10  
OFFICE OF WATER

333 RASPBERRY ROAD  
ANCHORAGE, ALASKA 99518-1599  
PHONE: (907) 267-2100  
FAX: (907) 267-2464

**HABITAT AND RESTORATION DIVISION**

**SPECIAL AREA PERMIT FG 99-II-0641**

**ISSUED:** February 10, 2000

**EXPIRES:** December 31, 2004

Municipality of Anchorage  
Anchorage Water and Wastewater Utility  
Attention: Mr. Mark Premo  
3000 Arctic Boulevard  
Anchorage, AK 99503

Dear Mr. Premo:

Re: Asplund Water Pollution Control Facility Discharge  
SID AK9912-04AA; EPA NPDES Permit No. AK-002255-1

Pursuant to 5 AAC 95, the Alaska Department of Fish and Game (ADF&G) has reviewed your proposal to continue discharging treated wastewater from the John M. Asplund Water Pollution Control Facility at Pont Woronzof in Anchorage into the waters of Cook Inlet and the Anchorage Coastal Wildlife Refuge (ACWR). The outfall structure is located at 61° 12' 22.5" N. latitude / 150° 01' 08.7" W. longitude.

The ACWR was established by the Alaska Legislature in 1971 to protect habitat areas crucial to the perpetuation of shorebirds, waterfowl, salmon and other fish and wildlife species, and to restrict all other uses not consistent with this primary purpose. This proposal is not expected to adversely impact important habitat values of the refuge.

This project was reviewed for consistency with the standards of the Alaska Coastal Management Program and the Anchorage Coastal District Plan. A Final Consistency Determination was received from the Division of Governmental Coordination on February 7, 2000.

In accordance with 5 AAC 95, project approval is hereby given subject to the following stipulation:

1. The use of off-road vehicles or equipment (including that necessary for the maintenance and repair of the outfall structure) on refuge lands (including the tidal flats at Point Woronzof) requires prior authorization from the ADF&G in the form of a separate Special Area Permit.

The recipient of this permit (the permittee) is responsible for the actions of contractors, agents, or other persons who perform work to accomplish the approved plan. For any activity that significantly deviates from the approved plan, the permittee shall notify the ADF&G, Habitat and Restoration Division, and obtain written approval in the form of a permit amendment before beginning the activity. Any action taken by the permittee or an agent of the permittee that increases the project's overall scope or that negates, alters, or minimizes the intent or effectiveness of any



February 10, 2000

stipulation contained in this permit will be deemed a significant deviation from the approved plan. The final determination as to the significance of any deviation and the need for a permit amendment is the responsibility of the ADF&G, Habitat and Restoration Division. Therefore, it is recommended that the ADF&G, Habitat and Restoration Division, be consulted immediately when a deviation from the approved plan is being considered.

This letter constitutes a permit issued under the authority of 5 AAC 95. This permit must be retained on site during the activity. Please be advised that this approval does not relieve you of the responsibility for securing other permits: state, federal, or local.

Pursuant to 6 AAC 80.010 (b), the conditions of this permit are consistent with the standards of the Alaska Coastal Management Program and the Anchorage Coastal District Plan.

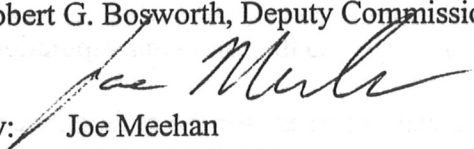
In addition to the penalties provided by law, this permit may be terminated or revoked for failure to comply with its provisions or with applicable statutes and regulations. The permittee shall mitigate any adverse effect upon fish or wildlife, their habitat, or any restriction or interference with public use, which the commissioner determines may be expected to result from, or which actually results from, the permittee's activity, or which was a direct result of the permittee's failure to: 1) comply with a permit condition or a provision of 5 AAC 95; or 2) correct a condition or change a method foreseeably detrimental to fish and wildlife, or their habitat.

The permittee shall indemnify, save harmless, and defend the department, its agents, and its employees from any and all claims, actions, or liabilities for injuries or damages sustained by any person or property arising directly or indirectly from permitted activities or the permittee's performance under this permit. However, this provision has no effect if, and only if, the sole proximate cause of the injury is the department's negligence.

Pursuant to 5 AAC 95.920, an interested person may initiate an appeal of a decision made under this chapter in accordance with the provisions of AS 44.62.330 - 44.62.630 by requesting a hearing under AS 44.62.370.

Sincerely,

Robert G. Bosworth, Deputy Commissioner

By:   
Joe Meehan  
Habitat Biologist  
Region II

cc: ✓ R. Robichaud, EPA  
T. Wingerter, DEC  
T. Tobish, MOA  
K. Gaskill, DNR  
H. Dean, EPA  
M. McCrea, OMB/DGC

M. Eagleton, NMFS  
B. Stratton, ADF&G  
R. Sinnott, ADF&G  
C. Matt, ADF&G  
J. Westlund, ADF&G  
J. Fox, ADF&G

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ANCHORAGE - A00/A

# Municipality of Anchorage



P.O. Box 196650  
Anchorage, Alaska 99519-6650  
Telephone: (907) 343-4433

*Rick Mystrom, Mayor*

OFFICE OF THE MUNICIPAL MANAGER

October 21, 1997

Mr. Charles Clark  
Regional Administrator  
U.S. EPA Region 10  
1200 Sixth Avenue  
Seattle, WA 98101

Re: Petition to Modify NPDES Permit No. AK-002255-1  
for Biochemical Oxygen Demand Limits  
for John M. Asplund Water Pollution Control Facility at Anchorage, Alaska

Dear Mr. Clark,

Pursuant to 40 CFR 124.5(a), the Municipality of Anchorage Water and Wastewater Utility (AWWU) is formally petitioning EPA to modify the biochemical oxygen demands (BOD) limits for the John M. Asplund Water Pollution Control Facility. Please refer to Attachment A.

The Asplund facility operates under a NPDES 301(h) permit that was issued in 1985. The permit limits the concentration and the mass loading of BOD that can be discharged into Cook Inlet. Although the BOD levels that come into the treatment plant have increased substantially over the past twelve years, the discharge from the plant has always met its mass loading limits and has generally met its concentration limits. This has been accomplished by increasing the BOD removal efficiency of the treatment plant to a level that rivals advanced primary treatment. Projected population and industrial growth, however, indicates that the BOD concentration permit limits will be exceeded more frequently in the future. Although BOD concentration in the discharge will increase, no harmful effect on Cook Inlet is expected to occur due to rapid natural mixing and high dissolved oxygen levels. Extensive analysis and monitoring, which have been reported to EPA Region 10 for the past twelve years, have shown no measurable impact of the existing BOD discharge. Predicted increases in BOD discharge concentrations will not change that situation.

Mark Premo, General Manager of AWWU, met with Robert Robichaud and Carla Fisher on July 15, 1997, regarding this issue. The meeting was very informative. We appreciate the candid discussion and the ideas and cautions offered by Mr. Robichaud. We understand and appreciate the reasons why reissuing our permit is not a high priority. That is why we are




October 21, 1997  
Mr. Charles Clark  
Page 2

pursuing a permit modification. As a result of this meeting we had our counsel, Steve Schatzow, of Morgan, Lewis & Bockius prepare a legal brief concerning the modification of an administratively extended permit. (Attachment B)

Time is of the essence. The Asplund facility is continuing to exceed effluent BOD concentration limits. Your assistance is greatly appreciated. Please contact Mark Premo at (907) 786-5506 if there is anything we can do, or provide, to facilitate our permit modification.

Sincerely,

  
Larry D. Crawford  
Municipal Manager

cc: Robert Robichaud, Manager, NPDES Permits  
Steve Schatzow, Morgan, Lewis & Bockius  
George Vakalis, Operations Manager, MOA  
Mark Premo, General Manager, AWWU

**PETITION TO MODIFY NPDES PERMIT NO. AK-002255-1  
BIOCHEMICAL OXYGEN DEMAND LIMITS FOR JOHN M. ASPLUND  
WATER POLLUTION CONTROL FACILITY AT  
ANCHORAGE, ALASKA**

**INTRODUCTION**

The Municipality of Anchorage operates the John M. Asplund Water Pollution Control Facility (the "Asplund facility"). This facility provides wastewater treatment for the majority of the population and industry located within the Anchorage Bowl. The Asplund facility discharges primary treated wastewater into the Knik Arm of Cook Inlet under a 301(h) NPDES permit that was issued in 1985. The facility is currently operating near the permit concentration limits for discharge of Biological Oxygen Demand (BOD). Projections of population and industrial growth indicate that without some relief these permit limits may be exceeded in the near future.

**NPDES PERMIT BOD LIMITS**

The NPDES permit contains limits for both the concentration (mg/L) and load (lb/day) of BOD that the Asplund facility can discharge into Cook Inlet.

<u>Unit of Measurement</u>	<u>Monthly Average</u>	<u>Weekly Average</u>	<u>Daily Maximum</u>
mg/L	120	130	140
lb/day	44,060	47,730	51,410

The concentration limits were based on pre-1985 influent BOD levels and projections of the performance efficiency of the Asplund facility. The allowed mass loading in the permit were determined by simply multiplying the projected achievable BOD concentrations by the design flow rate of 58 mgd.

It should be noted that these BOD limits are not the maximum levels that could be discharged with no harmful effect on Cook Inlet, but are rather the BOD levels that were projected to be achievable by the facility in 1985. Extensive analysis done prior to 1985 and subsequently has predicted that these levels and even much higher levels of BOD discharge would have no harmful impact on the Cook Inlet environment.

**CURRENT BOD LEVELS**

BOD concentration in the influent to the Asplund facility has substantially increased since 1985. This increase in concentration has been caused by improvements made to wastewater collection facilities and water management practices within Anchorage. The amount of infiltration and inflow of surface water and groundwater into sewers has been greatly reduced and per capita water consumption has decreased. At the same time the population of Anchorage has increased



resulting in increased generation of wastewater. The net result has been higher wastewater influent flows and higher influent BOD concentration. (See attached figure A-1).

During this same period of time the Asplund facility has been able to maintain a relatively constant effluent BOD concentration. This has been achieved by taking full advantage of the facility's capacity and refining and optimizing solids handling procedures.

The Asplund facility has six primary clarifiers with a design overflow rate of 850 gallons per day per square foot at a wastewater flow rate of 58 mgd. The overflow rate is a design parameter that determines how effective the clarifiers will be in removing particulate material, including particulate BOD. The lower the overflow rate, the more efficient the clarifiers are in removing BOD. Currently, at a wastewater flow rate of 31 mgd, the overflow rate is 450 gallons per day per square foot. The primary clarifiers allow particulate material, including insoluble BOD, to settle and thus be removed from the waste stream, but they do not remove soluble BOD. Soluble BOD remains in solution and passes directly through the clarifiers. Remove of soluble BOD requires expensive secondary treatment processes which the Asplund facility does not provide.

In 1985, the influent rate was approximately 30 mgd so use of only three of these primary clarifiers was necessary to achieve the design overflow rate and meet the BOD permit limits. Influent BOD concentration began to increase significantly in 1990, and we were informed by Region 10 EPA that the new amendments to the 301(h) statute required a minimum of 30% removal. At that time, all six clarifiers were brought on line in order to reduce the overflow rate and improve BOD removal efficiency.

At the same time, operation of the sludge thickeners was improved so that the solids levels in the sludge thickener return flow were substantially reduced.

This combination of factors resulted in improvements in BOD removal efficiency at the facility. Efficiency of BOD removal has increased from less than 30% to over 50%. This BOD removal efficiency is within the upper range of efficiencies observed at other primary treatment plants---including some with advanced primary chemical treatment. This indicates that the Asplund facility is probably not capable of further removal efficiency improvements.

#### **COMPLIANCE WITH THE NPDES PERMIT BOD LIMITS**

The BOD loads in the Asplund effluent are currently well within the permit limits. During 1995 and 1996 the peak monthly average load was 32,740 lb/day, the peak weekly average load was 35,607 lb/day, and the peak daily maximum load was 37,182 lb/day.

BOD concentrations in the effluent, however, occasionally exceed the limits contained in the permit. Removal efficiencies at the facility increased in 1990/1991. During that period there were no permit violations. Continued increase in influent BOD concentration since 1991 has resulted in recent occasional permit violations. The Asplund effluent violated permit BOD concentration limits 13 times in 1995 and once in 1996. (See attached violation figure A-2.) The decrease in violations the summer of 1996 was almost certainly the result of Whitney Foods, a major fish processor, not operating in 1996. It is expected that with existing influent BOD concentrations,

the BOD limit will continue to be occasionally exceeded. In fact, test results from early July show that daily and weekly BOD permit limit exceedences are starting to occur again, the same as 1995.

### **FUTURE BOD TRENDS**

Several factors indicate that influent BOD levels will be increasing in the future and that chances for exceeding the permit limits will increase.

Population growth in Anchorage will cause the influent flow and loadings to increase over time. Population in the Anchorage Bowl is expected to increase by over 100,000 by the year 2025. This population increase will increase influent flow rate by over 10 mgd. The increased flow will cause the overflow rate of the facility's primary clarifiers to increase, thus reducing BOD removal efficiency towards pre-1990 levels. The result will be increased levels of effluent BOD.

The Whitney Foods fish processing plant, formerly the largest fish processor in Anchorage, contributed large amounts of insoluble and soluble BOD up through 1995. It was shut down in 1996, but is now back on line at approximately the same production level as previously in 1995.

Landfill leachate discharge, from the inactive Merrill Field land fill and the active Highland Regional landfill, to the treatment plant is expected to increase over time. This material consists almost entirely of soluble BOD and the primary clarifiers at the facility are not able to remove it. It is anticipated the leachate will contribute an additional 370 pounds of soluble BOD per day by the year 2000 resulting in an increased BOD effluent concentration of 1.5 mg/L.

An extremely large fish processing plant planned to be in operation in 1999 will also increase the amount of BOD that is entering the facility. The fish processing plant is expected to process up to 20 million pounds of whole salmon, halibut, and other flatfish over an nine month period every year. The waste from this process is expected to contribute 2000 pounds of soluble BOD per day to the facility. This soluble BOD will pass through the facility's primary clarifiers and increase the plant effluent BOD by about 9 mg/L.

Both increased flows causing reductions in BOD removal efficiency and increased soluble BOD loading will result in the monthly average, weekly average, and maximum daily BOD concentration limits being violated more frequently, especially during the summer. The BOD discharge, however, will remain well within the existing permit load limits.

Pretreatment is not a cost effective option. Many dischargers, like restaurants and small micro breweries, individually contribute small amounts of BOD. As discussed above, a few dischargers such as landfills and seasonal fish processors contribute large amounts of BOD. The Asplund facility does an excellent job removing more than 80% of insoluble BOD, but removes little soluble BOD. It is not economically feasible for either small or large dischargers to pretreat for removal of soluble BOD. This would require the construction of a number of secondary treatment plants at a cost of many 10's of millions of dollars. The cost could drive a relatively clean industry, like a fish processor, out of Anchorage and substantially increase landfill rates. It would be unusual to require pretreatment for a conventional pollutant, like BOD, that is



traditionally removed by conventional treatment. The pretreatment of soluble BOD would also provide no environmental benefit to Cook Inlet, the receiving water, which has rapid mixing and high dissolved oxygen levels.

### **IMPACTS OF CURRENT BOD DISCHARGE ON COOK INLET**

Although permit limits for BOD concentration may currently be occasionally violated, the effect on Cook Inlet is minimal and probably not measurable. The Inlet's extreme tidal range, rapid currents and mixing rates, and high natural dissolved oxygen concentrations results in a capacity to easily assimilate Point Woronzof's BOD discharge. In addition, the area of discharge has a very sparse biological community and minimal recreational use.

Of the several unique characteristics of Knik Arm, perhaps the most unusual are its tidal characteristics. The semidiurnal mixed tides in Knik Arm have an average range of 30 feet. This creates swift currents with maximum speeds of over 8 ft/sec and vigorous mixing off Point Woronzof. Freshwater inflow keeps the salinity of Knik Arm generally below 20 ppt, but the vigorous mixing allows very little stratification to occur. Net seaward exchange of water occurs at all times of the year with rapid flushing of very large volumes of water. The discharge of wastewater into Cook Inlet is through an outfall and diffuser located to take full advantage of the receiving water's mixing and flushing characteristics.

Dissolved oxygen levels in Knik Arm are always near saturation and have no discernible vertical gradient. Knik Arm contains some of the most naturally turbid coastal water in the world. Particulates from glacial melt and the vigorous mixing keep suspended solids concentrations in the range of 250 to 2,500 mg/L.

Knik Arm has a very low abundance and diversity of attached benthic organisms, both subtidally and intertidally. This low diversity is a product of the area's high tidal range and currents, high suspended solids, and ice scouring of the intertidal area. Knik Arm does serve as a conduit for the passage of anadromous fish and marine mammals although available data suggests that their residence time in the discharge area is very short.

As would be expected with such extreme natural conditions, the existing discharge of BOD into Cook Inlet has had no measurable effect on water quality. BOD impacts can be determined by measuring dissolved oxygen in the receiving water. An impact would cause dissolved oxygen to be depressed below that level that would occur naturally. As required by the discharge permit, extensive monitoring has been conducted in Cook Inlet over the past ten years. Hundreds of dissolved oxygen measurements in the vicinity of the discharge have been made. No depression of dissolved oxygen and no impact of BOD discharge on water quality has ever been found. This result is entirely consistent with the predictions that were made as part of the analysis that support the permit conditions.

## POTENTIAL IMPACTS OF INCREASED BOD DISCHARGE

The assimilative capacity of Cook Inlet for BOD is such that even substantial increases in BOD discharge would continue to have no measurable effect on water quality. Following the procedures outlined in Anchorage's 1990 "Renewal Application for NPDES Permit and 301(h) Variance from Secondary Treatment" an estimate of the minimum dissolved oxygen concentration and maximum dissolved oxygen depression resulting from discharge of BOD can be made. These procedures are very conservative and give an upper limit on what a BOD impact on dissolved oxygen might be.

The following assumptions are made in the calculations:

Initial Dilution – 25:1  
 Immediate Oxygen Demand – 3.0 mg/L  
 Effluent Dissolved Oxygen – 0 mg/L  
 Cook Inlet Dissolved Oxygen – 8.0 mg/L  
 Initial Wastefield Width – 50 ft  
 Cook Inlet Temperatures – 14 degrees C

The minimum dissolved oxygen concentration and the maximum dissolved oxygen depression occur only at a single point in the wastefield as it moves away from the outfall location and is rapidly dissipated by currents and mixing.

<u>Effluent BOD, mg/L</u>	<u>Minimum Dissolved Oxygen Concentration, mg/L</u>	<u>Maximum Dissolved Oxygen Depression, mg/L</u>
0	7.56	0.44
120	7.50	0.50
130	7.47	0.53
140	7.45	0.55
150	7.42	0.58
160	7.40	0.60
170	7.38	0.62
180	7.35	0.65
190	7.33	0.67
200	7.30	0.70

As can be seen from the results of the calculations, increasing BOD has a minimal effect on predicted minimum dissolved oxygen levels. The increase in maximum predicted dissolved oxygen depression is only 0.2 mg/L when effluent BOD increases from 120 mg/L to 200 mg/L. Dissolved oxygen concentration always remain well above the dissolved oxygen water quality standard of 5.0. In practical terms, it is very unlikely that increase in effluent BOD levels up to 200 mg/L would result in any measurable change in Cook Inlet dissolved oxygen.



**REQUEST FOR PERMIT BOD LIMIT MODIFICATIONS**

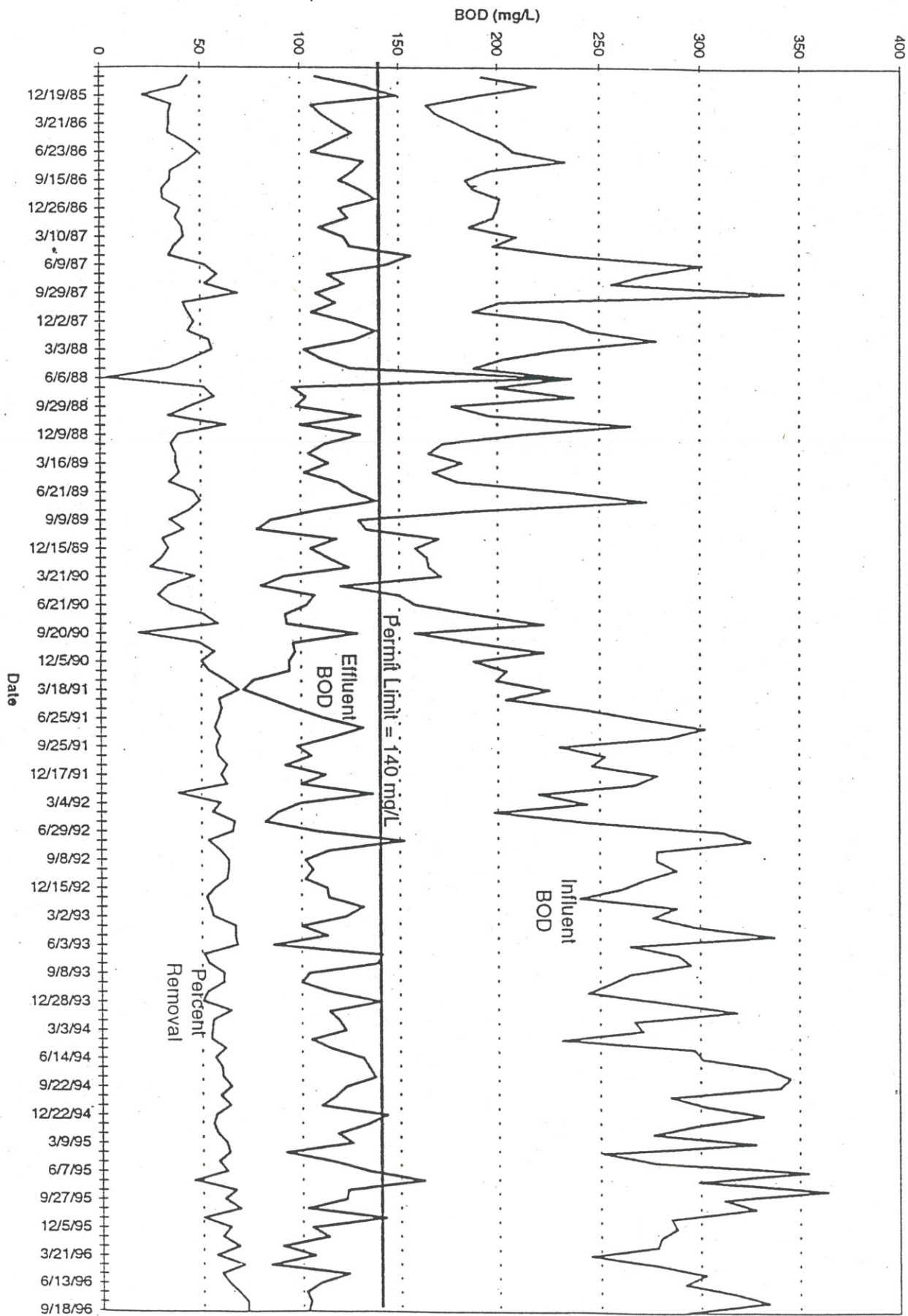
Pursuant to 40 CFR 124.5(a), AWWU formally petitions EPA to modify the BOD limits in NPDES permit No. AK-002255-1 for the John M. Asplund Water Pollution Control Facility by eliminating the daily, weekly and monthly effluent BOD concentration limits. The reasons for modification of the permit limits are pursuant to 40 CFR 122.62(a)(1)&(2).

This modification would leave the effluent BOD loading rates (daily, weekly, monthly) and the Section 301(h) regulatory requirement for 30% removal to control BOD levels. Deleting concentration limits for effluent BOD would be similar to NPDES permit No. CA0107409 issued November 9, 1995, to San Diego by Region IX for the Pt. Loma primary treatment facility.

Time is of the essence since the Asplund facility is experiencing effluent BOD exceedences and a new large fish processor will soon come on line. There is not time to renew the NPDES 301(h) permit for the Asplund facility. A permit renewal could take many years. Our understanding is that renewal of the permit is not on EPA Region 10's current three year work plan. Also, influent characteristics and the changes in 301(h) regulations may necessitate preparing a modified renewal application, a process that could take 6-12 months.

At the same time, our extensive monitoring of Cook Inlet continues to show that BOD discharge, as expected in a well flushed marine environment, are having no measurable effects on the receiving water due to Cook Inlet's rapid natural mixing and high dissolved oxygen levels.

Figure A-1



Pt. Woronzof WWTP  
Peak Day/Month BOD



Figure A-1

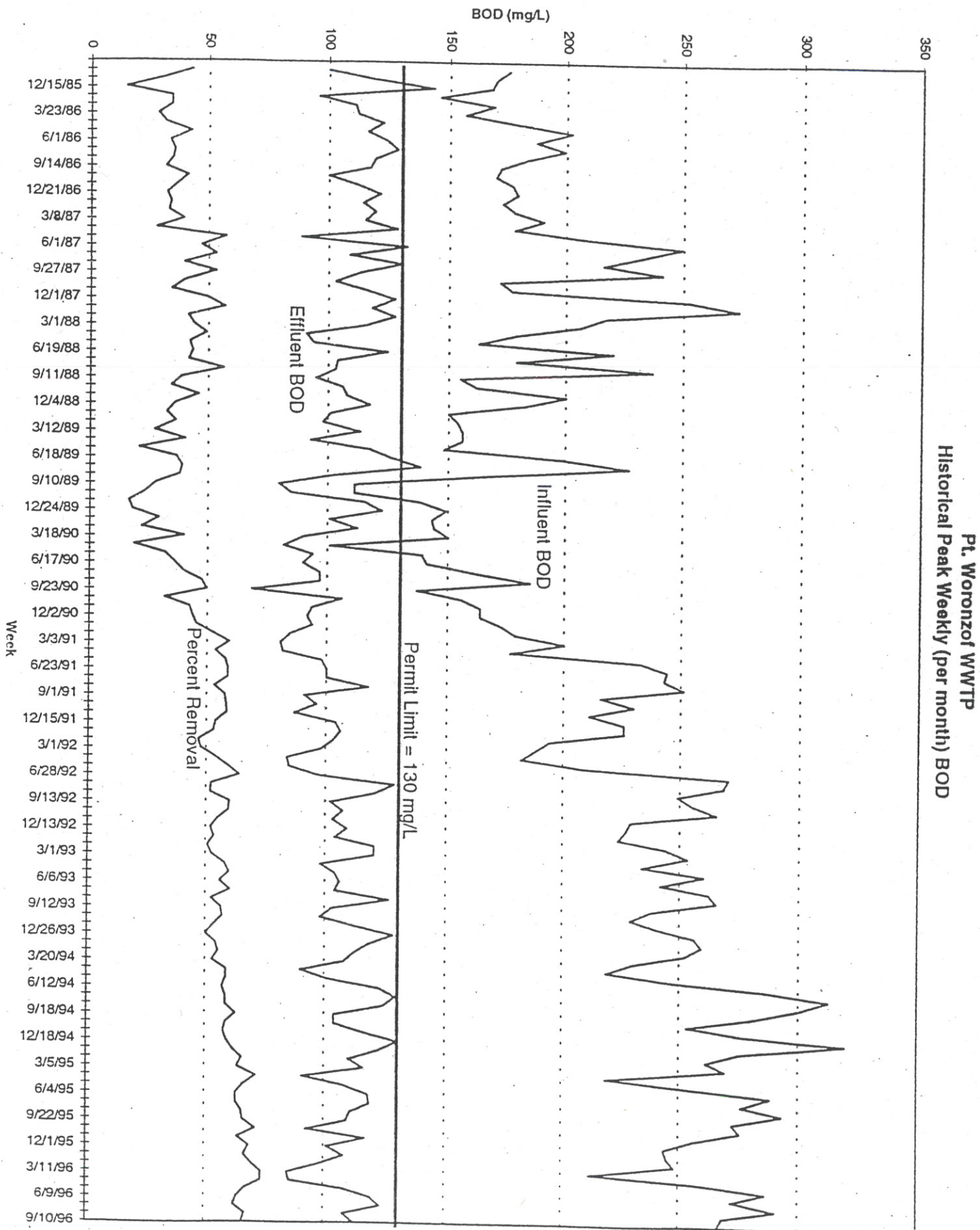
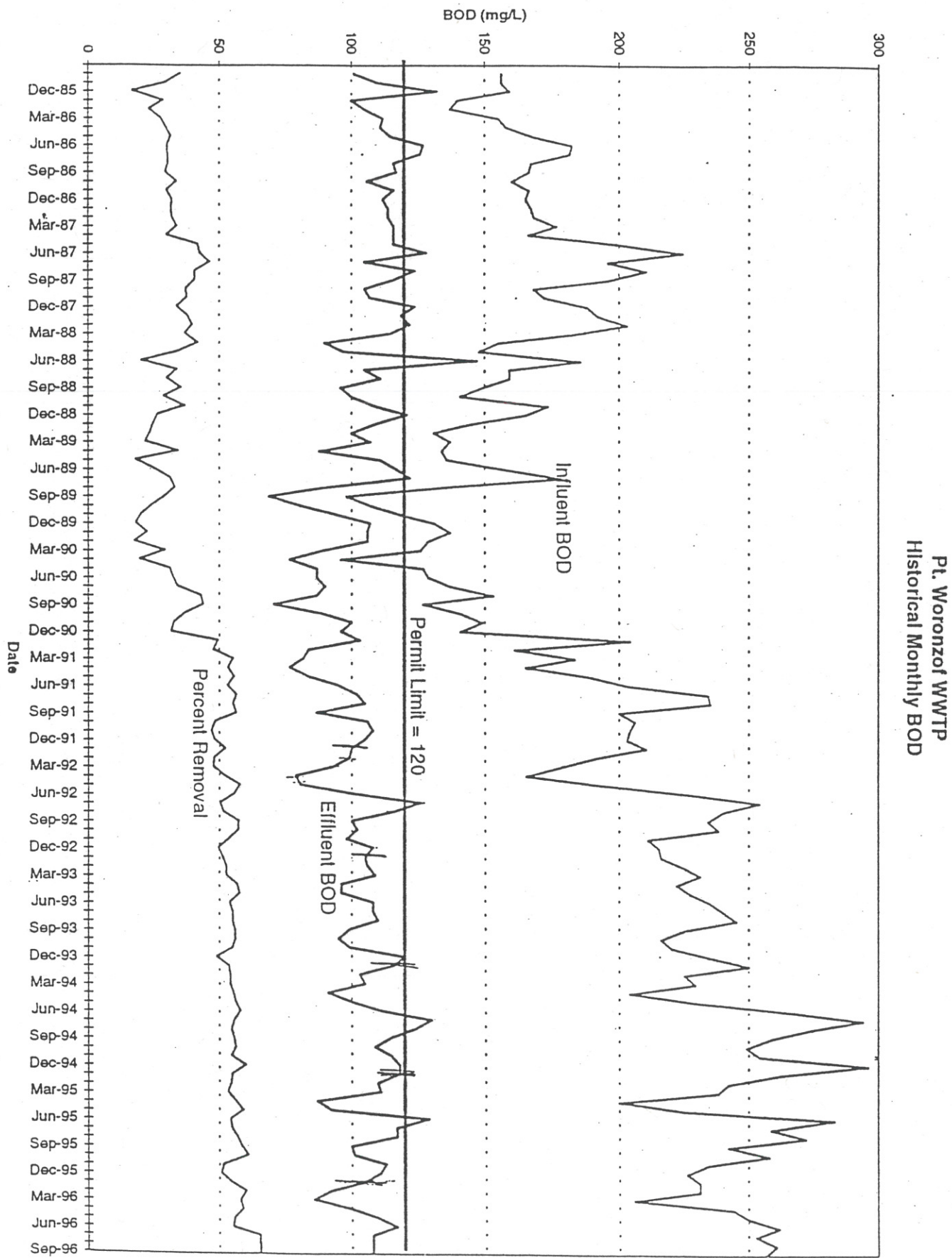


Figure A-1





# **BOD VIOLATIONS ASPLUND WPCP**

<b>DAILY FINAL EFFLUENT BOD EXCEEDANCE OF 140 MG/L</b>		
<b>REPORTING PERIOD</b>	<b>DATE</b>	<b>CONCENTRATION (mg/L)</b>
June 1995	6/21/95	146
	6/27/95	152
	6/28/95	147
	6/29/95	153
July 1995	7/5/95	162
	7/6/95	146
November 1995	11/7/95	141
	11/23/95	142
November 1996	11/29/96	141
July 1997	7/9/97	141
	7/16/97	153
	7/17/97	151
	7/23/97	146
	7/30/97	170
	7/31/97	145

<b>WEEKLY FINAL EFFLUENT BOD EXCEEDANCE OF 130 MG/L</b>		
<b>REPORTING PERIOD</b>	<b>DATE</b>	<b>CONCENTRATION (mg/L)</b>
January 1995	week ending 1/21/95	133
June 1995	week ending 6/3/95	134
	week ending 6/30/95	140
July 1995	week ending 7/8/95	139
December 1996	week ending 12/14/96	133
July 1997	week ending 7/19/97	134
	week ending 7/31/97	142

<b>MONTHLY FINAL EFFLUENT BOD EXCEEDANCE OF 120 MG/L</b>		
<b>REPORTING PERIOD</b>	<b>DATE</b>	<b>CONCENTRATION (mg/L)</b>
June 1995	June 1995	129
July 1997	July 1997	132

**Modification of Administratively Extended NPDES Permit for  
Asplund Wastewater Treatment Plant (Point Woronzof),  
Anchorage, Alaska**

The Anchorage Water and Wastewater Utility ("AWWU") operates the Point Woronzof wastewater facility pursuant to an NPDES permit that expired on October 15, 1990, but continues in effect pursuant to 5 U.S.C. § 558(C) AND 40 C.F.R. § 122.6(a). In informal conversations with EPA staff, we have been informed that the Agency lacks authority to modify the conditions of a permit, such as ours, that remains in force after the expiration of its five-year term. We believe that this position is contrary to law and public policy. While there are no cases addressing the issue as it relates to NPDES permits, case law examining an agency's ability to modify permits extended by the Administrative Procedure Act ("APA") holds that such an expired permit can be modified. Moreover, nothing in the NPDES regulations prohibits modification of an expired, but continuing, permit. For the following reasons, we believe that EPA has authority to modify the Point Woronzof permit, consistent with the requirements of 40 C.F.R. § 122.62.

The APA provides in pertinent part that, "{w}hen the licensee has made timely and sufficient application for a new license in accordance with agency rules, a license with reference to an activity of a continuing nature does not expire until the application has been finally determined by the agency." 5 U.S.C. § 588(c)(emphasis added).

EPA regulations incorporate this APA provision in 40 C.F.R. § 122.6, which states that, "{w}hen EPA is the permit-issuing authority, the conditions of an expired permit continue in force under 5.u.s.c. § 588(c) until the effective date of a new permit if: (1) the permittee has submitted a timely application under § 122.21 which is a complete (under § 122.2 (e)) application for a new permit; and (2) The Regional Administrator, through no fault of the permittee does not issue a new permit with an effective date under § 124.15 on or before the expiration date of the previous permit . . . " 40 C.F.R. § 122.6(a).

The D.C. Circuit Court of Appeals examined and upheld this particular regulation in Natural Resources Defense Council v. U.S. E.P.A., 859 F.2d 156 (D.C. Cir. 1988). In that case, the court noted that "the regulation does not purport independently to extend permits. Rather, it simply delineates the circumstances under which the conditions of an expired permit continue in force under 5 U.S.C. 588(c)." Id. at 214 (citation omitted). Thus, as the court recognized, if an NPDES permittee has properly applied for a permit renewal, by operation of law, the expired permit is continue. Id.

The Natural Resources Defense Counsel opinion does not address the EPA's authority to modify an expired NPDES permit that continues in effect under 5 U.S.C. § 588(c). Outside of the NPDES context, however, the D.C. Circuit Court of Appeal's has held that section 588(c) tolls the expiration date of a permit, thereby allowing a modification outside of the permit's original term. Swinomish Tribal Community v. Federal Energy Regulatory Comm'n, 627 F.2d 499, 506 (D.C. Cir. 1980).



In Swinomish, the City of Skagit, Washington, sought to amend its dam construction license, which had a term of 50 years, to raise the height of the dam and increase the capacity of the reservoir. Id. At 503. The Federal Energy Regulatory Commission, however, did not approve the requested amendment by the time the license expired. Id. At 505. Opponents of the dam project argued that the Commission could not amend the license in the period between its expiration and approval of the City's renewal application. The court rejected this argument, holding that, because the City had filed an application to renew its license, the APA applied to continue the 50-year license. Because of the APA, the license had "not effectively expired." Id. At 506. The court stated, "{i}n such circumstances, the expiration date is tolled." Id. Thus, the Commission could amend the license after its initial 50-year term, but prior to its renewal. Id.

Together, Natural Resources Defense Council and Swinomish stand for the proposition that, where certain conditions have been met, the APA, not the Clean Water Act, extends the life of a permit beyond its expiration date, and that such an extended permit is treated as if it had not expired. Whether EPA could alter this result by regulation under the CWA is doubtful. Assuming, however, for the sake of argument, that the Agency has authority to regulate permits extended by the APA differently from permits that have not expired, the current regulations simply do not manifest this intent.

Looking first at the provisions governing the continuance of expiring permits, the regulations mandate that "{p}ermits continued under this section remain fully effective and enforceable," and specifically authorize initiation of an "enforcement action based upon the permit which has been continued." 40 C.F.R. § 122.6(b) & (c)(1).

Next we turn to section 122.46, which governs the duration of permits. It provides that permits may not exceed a fixed term of five years "except as provided in § 122.6." This prohibition on otherwise extending the expiration date of a permit, however, does not address, and therefore is irrelevant to, the treatment of permits statutorily extended by the APA.

Finally, the modification provisions themselves do not limit EPA's authority to modify permits that have been continued by the APA. The regulations governing the modification of permits allow the Director to modify permits for cause. 40 C.F.R. § 122.62. Section 122.62(a) lists sixteen "causes" for modification. Of the sixteen subsections setting forth causes, we note that two of them state "permits may be modified during their terms for this cause {under enumerated circumstances}." § 122.62(a)(2) & (3) (emphasis added). The other fourteen subsections do not include this language. § 122.62(a)(1), (4)-(13), (15), (16) & (18).

The purpose of this "during their terms" language in subsections 122.62(a)(2) and (3) is unclear, but there is not indication in any regulatory history that this language was intended to limit the ability of the Director to modify permits whose terms had been extended by the APA.<sup>1</sup>

<sup>1</sup> 1/ The language was added to the regulation in 1980 when EPA consolidated UIC, RCRA, and NPDES regulations, 45 Fed. Reg. 33418, 33428 (May 19, 1980). At the same time, EPA adopted a fixed-term approach to RCRA and UIC permits, in contrast to a system of lifetime permits with periodic review and modification, which it originally proposed. Id. At 33313. NPDES modification regulations prior to consolidation did not contain the

Subsections 122.62(a)(2) and (3), therefore, are on their face equally applicable to permits during their initial five-year terms and permits whose terms have been extended by the APA.

Based on our analysis of the relevant statutes, case law, and regulations, we believe that, as a matter of law, a permit continued by the APA has the same force and effect, and is subject to the same modification procedures, as any other NPDES permit. As a matter of public policy, the arguments in favor of modifying APA-continued permits in the same manner as un-expired permits are equally compelling.

Application of the modification procedures to APA-continued permits conserves valuable agency resources. A permitting authority faced with an overload of renewal applications can use the modification procedures to expeditiously address discrete issues in a continued permit whose renewal application may otherwise be of low priority. By addressing concerns of low-priority applicants in an expedited fashion, the agency will save resources better devoted to high priority applications. In short, the use of modifications allows the Agency to exercise its discretion in determining which permits require immediate and significant renewal action, and which, if modified, can wait for complete renewal review.<sup>2</sup>

The contrary approach---refusal to modify APA continued permits---not only wastes limited agency assets, but in essence, would create a second class of permits consisting of those continued beyond their original terms. Those permittees, who, through no fault of their own, find themselves in that second class would be subject to all of the Agency's enforcement mechanisms (as if their permits had not expired), but would be hampered from altering the conditions of their permits when circumstances that would legally justify a change arise. This treatment, therefore, actually penalizes the permittee who, in good faith, has followed the renewal application requirements to the letter of the law.

In conclusion, from both policy and legal standpoints, it is obvious that EPA can, and should, modify permits continued by the APA where the requested modifications meet EPA's regulatory criteria. It is with this analysis in mind that I hope you will consider our request to modify the Point Woronzof permit.

**Prepared by: Steven Schatzow of Morgan, Lewis & Bockius, 1800 M Street N.W., Washington, DC 20036-5869, Tel. (202) 467-7000**

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"during their terms" language. See 44 Fed. Reg. 32899, 32912 (June 7, 1979). Nor did the proposed consolidated regulations (which provided for lifetime RCRA and UIC permits) contain this language. We surmise, therefore, that the phrase was added to emphasize or cross-reference the newly implemented concept of fixed terms in the RCRA and UIC permit programs.

<sup>2</sup> 2/ Of course, EPA could always modify the terms of a continued permit by issuing a new permit. Addressing requests for limited changes through this lengthy process, however, tends to slow the progress of an application.





UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 10

1200 Sixth Avenue  
Seattle, Washington 98101

NOV 12 1997

Reply To  
Attn Of: OW-130

Larry D. Crawford  
Municipal Manager  
P.O. Box 196650  
Anchorage, Alaska 99519-6650

Dear Mr. Crawford:

This is in response to your letter to Chuck Clarke, Regional Administrator, requesting modification of your NPDES Permit for the John M. Asplund Water Pollution Control Facility. After consideration of the information received both through your letter and from a meeting between the General Manager of your facility and members of my staff, we have decided to reissue this permit during Federal Fiscal Year 1999.

We understand your desire for us to take immediate action on your permit, however, our limited permit writing resources are currently engaged in issuing permits to facilities that discharge into impaired waters where management plans have recently been completed and to issuing permits to new dischargers. Both of these activities, watershed permitting and permitting new dischargers, have been assigned the highest priority within our Region. The conditions of your administratively extended permit will continue to apply until a final permit is reissued.

If you have further questions on the NPDES permit, please call Bob Robichaud, manager of the NPDES permit unit at (206) 553-1448.

Sincerely,

A handwritten signature in dark ink, appearing to read "Philip Millam", written over a horizontal line.

Philip Millam  
Director  
Office of Water

# Municipality of Anchorage



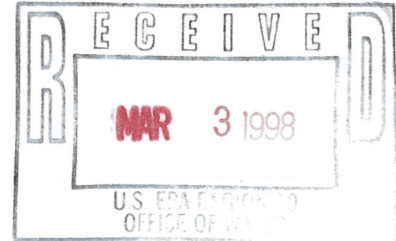
P.O. Box 196650  
Anchorage, Alaska 99519-6650  
Telephone: (907) 343-4433

*Rick Mystrom, Mayor*

*Mike  
Lidgard*

February 19, 1998

OFFICE OF THE MUNICIPAL MANAGER



Philip Millam, Director  
Office of Water, OW-130  
U.S. EPA Region 10  
1200 Sixth Avenue  
Seattle, Washington 98101

Re: NPDES Permit No. AK-002255-1 For John M. Asplund Water Pollution Control Facility at Anchorage, Alaska

Dear Mr. Millam:

Thank you for your response dated November 12, 1997, to our petition to modify NPDES Permit No. AK-002255-1 for biochemical oxygen demand (BOD) limits. The Municipality of Anchorage Water and Wastewater Utility supports the decision to reissue the subject permit during Federal Fiscal Year 1999.

Our population and industrial growth projections indicate that the BOD concentration limits for John Asplund Water Pollution Control facility will be exceeded more frequently in the future. (See attachment). For this reason, it is imperative that the subject permit be reissued as soon as possible, preferably by the end of 1999.

The Municipality of Anchorage will do everything possible to help expedite the process. We will commit to having a reviewed permit application to EPA Region 10 by August 31, 1998. The current application was prepared 8 years ago prior to changes such as increasing influent concentrations of BOD and TSS and revised 301 (h) regulations. Any early guidance that EPA Region 10 can give Anchorage in updating our permit application will be greatly appreciated. We also want to develop a list of water quality regulatory issues that may need to be resolved before the State of Alaska can certify our new permit. We will contact Bob Robichard regarding these questions.

Your assistance is greatly appreciated.

Sincerely,

  
Larry D. Crawford  
Municipal Manager

attachment

cc: Robert Robichard, Manager, NPDES Permits  
Steve Schatzow, Lewis & Bockius  
George Vakalis, Operations Manager, MOA

Mark Premo, General Manager, AWWU  
Floyd Damron, Branch Manager, CH2M Hill



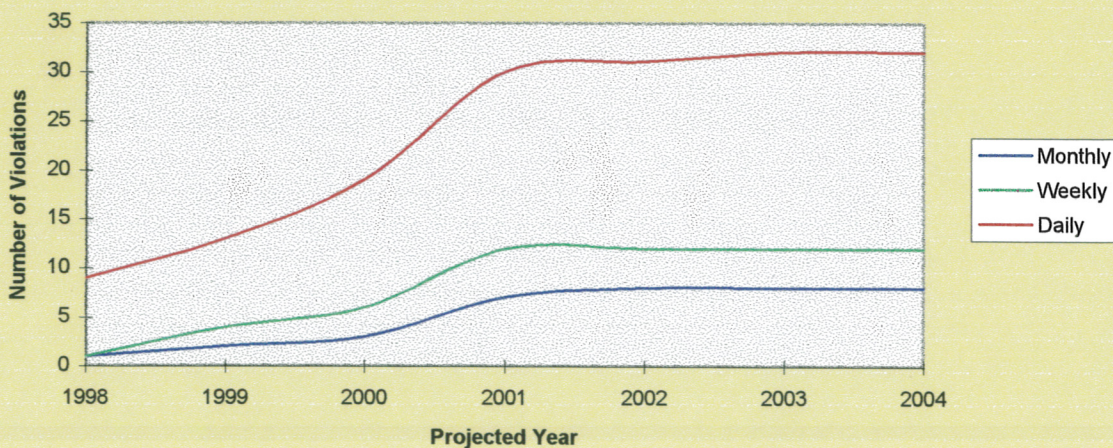
# Projected Violations

## Projections of Discharge Permit Violations

Violation Projections based on Alaska Seafoods International discharge estimates

Year	Monthly violations above 120 mg/L BOD	Weekly violations above 130 mg/L BOD	Daily violations above 140 mg/L BOD	Totals
1993	0	0	2	2
1994	2	2	9	13
1995	1	0	8	9
1996	0	0	1	1
1997	1	1	9	11
Est. 1998	1	1	9	11
Proj. 1999	2	4	13	19
Proj. 2000	3	6	19	28
Proj. 2001	7	12	30	51
Proj. 2002	8	12	31	52
Proj. 2003	8	12	32	53
Proj. 2004	8	12	32	53

BOD Violation Projections



# ANCHORAGE WATER & WASTEWATER UTILITY



Rick Mystrom,  
Mayor

## General Manager's Office

3000 Arctic Boulevard  
Anchorage, Alaska 99503-3898



Owned by the  
Municipality of Anchorage

May 11, 1998

Michael Lidgard  
NPDES Permits Unit (OW-130)  
U.S. EPA Region 10  
1200 Sixth Avenue  
Seattle, WA 98101

Post-it® Fax Note	7671	Date	MAY 11	# of pages	6
To	BOB ROBICHAUD		From	BRIAN CREWSON	
Co./Dept.	EPA-Reg 10 Permits		Co.	AWWU	
Phone #			Phone #	907-786-5511	
Fax #	206-553-0165		Fax #		

Re: Renewal of Pt. Woronzof NPDES Permit

Dear Mike:

Thank you for your assistance in helping the Anchorage Water and Wastewater Utility update its NPDES permit application. I look forward to meeting with you next week at 8:00 a.m. on May 14, 1998, in Seattle.

As you and Noel Williams, our consultant with CH2M Hill, discussed on April 21, the background water quality in Cook Inlet could be an issue. Previously, in 1991, based on EPA's recommendation ADEC approved the use of dissolved analytical method to measure background metals in Cook Inlet for the purpose of determining compliance with water quality standards. See attached letter from Sally Marquis, EPA dated February 1, 1991, and Doug Redburn, ADEC dated February 28, 1991. The use of dissolved background metals is key for Anchorage's demonstration of compliance with State water quality standards.

Noel and I met with key permitting and water quality people from the Alaska Department of Environmental Conservation April 23, 1998. They informed us that EPA told the State of Alaska that the dissolved background approach is no longer approved for use in Alaska. Is this correct? If so, what does Region 10, EPA recommend Anchorage do to demonstrate compliance with water quality standards and to avoid losing our 301(h) waiver and going to advanced metals removal based purely on procedural or regulatory grounds? I believe everyone should be able to agree that it is not an environmental or water quality issue.

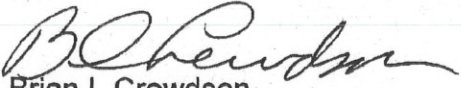


Michael Lidgard  
May 8, 1998  
page 2

Because of this issue, it is essential that EPA's water quality experts become involved in our discussions. Would it be possible for someone from the Water Quality Section to attend our meeting on May 14, 1998?

Thank you again for your assistance.

Sincerely,

  
Brian I. Crewdson  
Assistant to the General Manager

cc: Tim Hamlin, Water Quality Unit Manager  
Robert Robichaud, NPDES Permits Unit Manager

attachments

10/02/95 14:18 9072779736

CH2M HILL ANC →→→ SAC

001/007

United States  
Environmental Protection  
Agency

Region 10  
1200 Sixth Avenue  
Seattle WA 98101

Alaska  
Idaho  
Oregon  
Washington



FEB 01 1991

Reply to  
Attn of: WD-139

Doug Redburn  
Alaska Division of Environm  
P.O. Box 0  
Juneau, AK 99811-1800

Post-It Fax Note	7871	Date	2	# of pages	7
To	Neel Wilcox / SAC	From	F. Dampier / ANC		
Co./Dept.		Co.			
Phone #		Phone #			
Fax #		Fax #			

HOPE THIS HELPS FSD 01991

Dear Mr. Redburn:

Thank you for your summary on the site-specific criteria proposal for the Point Woronzoff outfall dated November 30, 1990. I have reviewed it to determine its consistency with federal policy.

One of your first concerns is to meet the requirements for obtaining a 301(h) waiver. Under 301(h)(9) "no permit issued under this subsection shall authorize the discharge of any pollutant into saline estuarine waters which at the time of application... exhibit ambient water quality below applicable water quality standards adopted..." In Cook Inlet, the location for the Point Woronzoff outfall, ambient water quality exceeds criteria for six metals. Therefore, you are proposing to adopt site specific criteria.

As you noted in your summary, your regulations (18 AAC 70.025) do prescribe procedures for modifying water quality criteria and provide the legal basis for evaluating and adopting site-specific criteria. Your regulations, however, do not exempt either your agency or ours from meeting requirements stipulated in the Water Quality Act and Water Quality Standards regulations (WQA Section 303(c) and 40 CFR 131.3(b), 131.5, 131.6, 131.11, 131.20(c). These are summarized, below.

Under our regulations and statutes, the Environmental Protection Agency (EPA) retains the authority to review and approve or disapprove state adopted water quality standards. Site specific criteria are considered elements of water quality standards under the water quality standards regulations. These regulations specifically address site-specific criteria development as one component of a standards modification that must be submitted to EPA, with the state Attorney General certification, for approval.

To approve state standards, EPA must certify that the adopted criteria will protect the designated water uses and that the methodologies used for site-specific criteria development



were based on appropriate technical and scientific data and analyses. Furthermore, we must determine that the state has followed its legal procedures for revising or adopting standards.

There are several ways to develop site specific criteria, but all must be scientifically defensible. These are outlined in chapter four of the water quality standards handbook.

I understand that developing site specific criteria and submitting them as a formal water quality standard modification may take some time. I would be glad to review your submittal on an informal basis as a top priority while you begin your formal rulemaking procedure.

A second possibility open to you is to evaluate ambient compliance with criteria by using a dissolved or acid soluble analytical method for analyzing metals in Cook Inlet. This option is outlined in our agency's draft policy, "Metals Analytical Methods for Use with Water Quality Criteria", dated May 17, 1990. Although this is a draft policy, we will approve procedures consistent with this policy as it is expected to be finalized in the immediate future with no substantive changes.

You may find that criteria can be met if this latter option is followed. However, this may not alleviate problems associated with determining permit limits for Point Woronzoff because, as indicated by 40 CFR 122.45, only the total recoverable method is to be used to determine compliance with NPDES permit limitations.

Finally, you mentioned that your department would like to jointly issue the public notice with EPA's notice of the draft NPDES permit. This is acceptable to us. If you would like to pursue this, please talk further with Carla Fisher at (206) 553-1756.

I hope that this clarifies EPA's position with regard to your site-specific criteria proposal for the Point Woronzoff outfall. If you have any questions, please do not hesitate to call me at (206) 553-2116.

Sincerely

*Rick Albright*  
for Sally Marquis  
Water Quality Standards Coordinator

# STATE OF ALASKA

## DEPT. OF ENVIRONMENTAL CONSERVATION

DIVISION OF ENVIRONMENTAL QUALITY  
P.O. BOX 0, JUNEAU, AK 99811-1800

STEVE COWPER, GOVERNOR

Telephone No.  
(907) 465-2653

February 28, 1991

Ms. Sally Marquis  
Water Quality Standards Coordinator  
U.S. Environmental Protection Agency  
Region X, WD-139  
1200 Sixth Avenue  
Seattle, Washington 98101

RECEIVED BY  
CH2M HILL AK  
MAR 07 1991

Dear Ms. Marquis:

Thank you for your letter responding to my November 30, 1990 summary of information on the site-specific criteria proposal for Point Woronzof and the department's procedures for establishing site-specific criteria. You summarized the basis for the Environmental Protection Agency's (EPA) position that formal rulemaking and EPA approval are required for any modification of water quality criteria under 18 AAC 70.025. While we do not fully agree with this position, we wish to work closely with EPA to develop any necessary amendments to this regulatory procedure to allow the Department to modify water quality criteria up to ambient levels without the need for formal rulemaking. As I explained in my November 30 letter, we feel this option is granted to Alaska in EPA's previous approval of the water quality standards in 1986.

We are encouraged by EPA's recently published policy guidance - "Metals Analytical Methods for Use With Water Quality Criteria" - which allows states the option of using a dissolved or acid soluble analytical method to evaluate ambient compliance with criteria. Your letter states that Region X will approve procedures consistent with this policy. This approach will allow the state and EPA to address the Point Woronzof discharge without the need for regulatory changes.

Water quality data provided the department by the Anchorage Water and Wastewater Utility, as part of their petition for establishing site-specific criteria, indicate that dissolved ambient concentrations of copper, chromium, lead, mercury, zinc and nickel in Cook Inlet adjacent to the Point Woronzof outfall are below water quality criteria for each respective metal. Public notice of the petition was issued in February 1990. This information, coupled with the calculated effluent dilution of 180:1 to the boundary of the proposed Zone of Initial Dilution (ZID), indicates that the discharge from the Point Woronzof facility will comply with state water quality standards. A copy of this information is attached. Therefore, a major condition of issuing a federal wastewater discharge permit under Section 301(h) of the Clean Water Act - that a discharge into saline estuarine waters can only occur where





ambient water quality is higher than applicable water quality standards -- is met for the Point Woronzof facility.

Since ambient waters meet the state's water quality criteria, establishing site-specific criteria adjacent to the Point Woronzof facility is not necessary. No public notice is required from the state. With this determination, EPA is now free to continue processing the federal discharge permit application for Point Woronzof. This letter should provide sufficient basis for you to proceed. The department's Southcentral Regional Office (563-6529) is available to assist you in developing specific conditions of the draft discharge permit.

In the coming months, I look forward to EPA's assistance in helping the state develop clarifying language in our water quality regulations which will allow site-specific criteria modification without the need for formal rulemaking in all cases. I am confident we can reach agreement on such language.

Sincerely,



Douglas R. Redburn  
Chief  
Water Quality Management

Enclosure

cc Rick Albright, EPA  
Carla Fisher, EPA  
Kris Warren, AWWU  
Floyd Damron, CH2M Hill

fecals

fecal ambient

11	16	2400
11	16	170
11	5.1	130
7	5.1	130
23	16	130
37	16	80
29	1	80
69	1	70
21	2	50
114	3.1	30
58	1.5	29
19	2	23
54	8	23
19	80	23
22	23	21
29	30	18
45	23	17
23	23	17
79	8	17
28	8	17
32	8	16
47	2	16
14	170	16
9	80	16
19	50	13
9	70	13
8	17	11
9	130	11
23	130	10
52	17	9
106	2	8
53	13	8
17	17	8
48	11	8
26	17	8
37	2	8
42	4	7
28	2	7
65	4	5.1
34	7	5.1
70	4	5
62	13	5
83	2	5
179	5	5
71	2	5
19	130	5
26	8	5
16	2	5
14	5	4
22	2	4
34	5	4
12	9	4
16	5	3.1
12	2	2
33	2	2
32	5	2
44	5	2
13	8	2
29	5	2
20	2400	2
22	4	2
80	11	2
62	18	2
n	29	2
average	21	2
median	10	2
	7	2
	2	2
	2	2
	2	2
	2	1.5
	5	1
	2	1
n	73	
average	51.709589	
median	7	

n  
average  
median

37.032258  
28

1986 - 1997 = 12 years  $\times 6 + 1 = 73$   
 not more than 10% shall exceed 43 max/100  
 not more than 7  
 9 are > 43

criteria - 14

Fecal information  
10/6/99



median value shall not exceed 14 / 1000  
not more than 10% shall exceed 43



Unit 11/5

list to Charles on facilities for inspection within next 6 months

E1-2

<u>1998</u>	<u>1997</u>	<u>1996</u>	<u>1995</u>	<u>1994</u>	<u>1993</u>
216 <del>1997</del>	✓ > 16.0	✓ 1.0	✓ 8.0	✓ 8	50
16	✓ 16.0	✓ 1.0/1.0	✓ 80.0	✓ 8	70
5.1	5.1	✓ 2.0	✓ 23	8	17
16	✓ 5.1	✓ 3.1	✓ 30	✓ 2	130
30	✓ 16.0	✓ 1.0/2.0	✓ 23	✓ 170	130
2.2	✓ 16.0	✓ 2.0	✓ 23	✓ 80	17

24 3 > 43 42

median → 5-8

<u>1992</u>	<u>1991</u>	<u>1990</u>	<u>1989</u>	<u>1988</u>	<u>1987</u>
2	4	2	5	2	4
13	2	5	27	5	11
17	4	2	5	5	18
11	7	130	9	8	29
17	4	8	5	5	21
< 2	13	2	2	> 2400	10
					7

1986

2  
< 2  
< 2  
2  
5  
2

last 13 years

79 readings ⇒ # > 43  
median = 8

8 = 9 over  
one outlier  
8 over

last 5 years

n = 30  
median = 12  
# > 43 = 3



$$\frac{16}{8} \\ 2 \overline{) 24} \\ 12$$

2/10

1st + 2nd

✓ 170

✓ 80

✓ 80

✓ 30

✓ 30

✓ 23

✓ 23

✓ 23

- 16

- 16

- 16

- 16

- 16

- 16

- 16

- 8

- 8

- 8

✓ 8

✓ 5.1

✓ 5.1

✓ 2.2

✓ 1

✓ 1

✓ 2

✓ 3

✓ 1

✓ 2

✓ 2



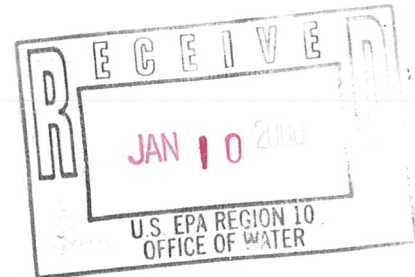
# STATE OF ALASKA

## DEPARTMENT OF FISH AND GAME

*Habitat and Restoration Division*

TONY KNOWLES, GOVERNOR

333 Raspberry Road  
Anchorage, AK 99518-1599  
PHONE: (907) 267-2281  
FAX: (907) 267-2464



### MEMORANDUM

TO: Maureen McCrea  
Senior Project Review Coordinator  
Division of Governmental Coordination  
Office of Management and Budget

FROM: Joe Meehan *JM*  
Habitat Biologist  
Region II

DATE: January 5, 2000

SUBJECT: ACMP Consistency Determination—Anchorage Water and Wastewater Utility  
Water Pollution Control Facility Discharge  
SID AK9912-04AA; EPA NPDES Permit No. AK-002255-1

The Alaska Department of Fish and Game (ADF&G) has reviewed the subject proposal for the reissuance of a U.S. Environmental Protection Agency National Pollutant Discharge Elimination System (NPDES) permit for the Municipality of Anchorage. The discharge into waters of Cook Inlet and Anchorage Coastal Wildlife Refuge are from the John M. Asplund Water Pollution Control Facility at Point Woronzof in Anchorage. The draft permit sets conditions on this discharge as well as authorizing the facility to continue to incinerate sewage sludge and to transfer sewage sludge to a separate sludge disposal facility.

The ADF&G recommends that this proposal be found consistent with the Alaska Coastal Management Program (ACMP) and will issue a Special Area Permit upon receipt of the final ACMP consistency determination.

We appreciate the opportunity to comment on this proposal. Please call me at 267-2285 if you have any questions.

cc: R. Robichaud, EPA  
T. Tobish, MOA  
C. Matt, ADF&G  
B. Stratton, ADF&G  
H. Dean, EPA

T. Wingerter, DEC  
R. Sinnott, ADF&G  
J. Westlund, ADF&G  
L. Medeiros, DNR/DL  
M. Premo, Applicant

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Region X  
1200 Sixth Avenue  
Seattle, Washington 98101

In Re:

MUNICIPALITY OF ANCHORAGE  
JOHN M. ASPLUND WATER POLLUTION  
CONTROL FACILITY,  
APPLICATION FOR SECTION 301(h)  
VARIANCE FROM THE SECONDARY  
TREATMENT REQUIREMENTS OF THE  
CLEAN WATER ACT.

TENTATIVE DECISION  
OF THE REGIONAL  
ADMINISTRATOR  
PURSUANT TO  
40 CFR PART 125, SUBPART G

The attached evaluation analyzes the merits of the application of the Municipality of Anchorage, John M. Asplund Water Pollution Control Facility, a publicly owned treatment works, for a renewal of their variance from the secondary treatment requirements of the Clean Water Act, as amended by the Water Quality Act of 1987 (the Act) pursuant to Section 301(h). It is my tentative decision that the John M. Asplund Water Pollution Control Facility be granted renewal of the variance in accordance with the terms, conditions and limitations of the attached evaluation. This determination is subject to concurrence by the State of Alaska as required by Section 301(h) of the Act. USEPA Region 10 will prepare a draft National Pollutant Discharge Elimination System (NPDES) permit in accordance with this decision.

Because my decision is based on available evidence specific to this particular discharge, it is not intended to assess the need for secondary treatment in general, nor does it reflect on the necessity for secondary treatment by other publicly owned treatment works discharging to the marine environment. This decision and the NPDES permit implementing this decision are subject to revision on the basis of subsequently acquired information relating to the impacts of the less-than-secondary discharge on the marine environment.

Pursuant to the procedure of the NPDES Permit Regulations, 40 CFR Part 124, a public notice will be issued including the comment procedures that are available to interested persons in regard to this decision and its accompanying draft NPDES permit.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Chuck Clarke  
Regional Administrator  
Environmental Protection Agency Region 10

CONCURRENCES

NAME	LIDGARD	ROBICHAUD	SMITH
INITIAL	<i>ML</i>	<i>ML</i>	<i>RFS</i>
DATE	<i>10/18/99</i>	<i>10/25/99</i>	<i>10/26/99</i>





UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 10  
1200 Sixth Avenue  
Seattle, Washington 98101

Reply To  
Attn Of: OW-130

Tom Chapple, Director  
Division of Air and Water Quality  
Alaska Department of Environmental Conservation  
555 Cordova St.  
Anchorage, AK 99501-2617

Re: NPDES Permit No. AK-002255-1  
John M. Asplund Water Pollution Control Facility

Dear Mr. Chapple:

Enclosed for your information is a copy of a draft National Pollutant Discharge Elimination System (NPDES) permit which we propose to issue to the referenced facility. I understand from the August 2, 1999 letter from Michele Brown to our Regional Administrator that the Department of Environmental Conservation (DEC) has waived its right under Section 401 of the Clean Water Act to certify this NPDES permit. I wanted to send a copy of this draft permit to notify you of our action and secondly, to provide DEC the option to review and certify the permit should the State elect to do so. If we do not receive a reply to this letter, we will assume DEC's position has not changed and that the State has elected to waive its right to certify this permit as stated in the August 2, 1999 letter.

Also enclosed is the public notice as it will appear in the local newspaper, a fact sheet which outlines the basis for the permit, and the Tentative Decision of the Regional Administrator Pursuant to 40 CFR Part 125, Subpart G.

Technical questions regarding the permit may be referred to Mike Lidgard of my staff at (206) 553-1755.

Sincerely,

Robert R. Robichaud, Manager  
NPDES Permits Unit

Enclosures  
CONCURRENCES

NAME	LIDGARD	LARSEN		
INITIALS	<i>mgl</i>			
DATE	<i>10/29/99</i>			

Reply To  
Attn Of: OW-130

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

Mark Premo  
General Manager  
Anchorage Water and Wastewater Utility  
3000 Arctic Boulevard  
Anchorage, Alaska 99503-3898

Re: NPDES Permit No. AK-002255-1  
John M. Asplund Water Pollution Control Facility

Dear Mr. Premo:

Enclosed for your information are copies of a draft National Pollutant Discharge Elimination System (NPDES) permit which we propose to issue to the referenced facility, the public notice as it will appear in the local newspaper, a fact sheet which outlines the basis for the permit, and the Tentative Decision of the Regional Administrator Pursuant to 40 CFR Part 125, Subpart G.

The Public Notice initiates a 45-day public comment period. Following the close of the public comment period, we will consider the comments received in preparation of the final permit.

Technical questions regarding the permit may be referred to Mike Lidgard of my staff at (206) 553-1755.

Sincerely,

Robert R. Robichaud, Manager  
NPDES Permits Unit

Enclosures

cc: AK DEC, Southcentral Regional Office

**CONCURRENCES**

NAME	LIDGARD	LARSEN	LOISELLE	
INITIALS	<i>MJL</i>		<i>RR</i>	
DATE	<i>10/15/99</i>		<i>10/18/99</i>	





UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 10  
1200 Sixth Avenue  
Seattle, WA 98101

NOV 1 - 1999

Reply To  
Attn Of: OW-130

Gail Evanoff, President  
Native Village of Chenega  
P.O. Box 8079  
Chenega Bay, Alaska 99574


Dear Mr. Evanoff:

Enclosed please find a preliminary copy of the draft National Pollutant Discharge Elimination System (NPDES) permit for the Municipality of Anchorage John M. Asplund Water Pollution Control Facility. This proposed action is a reissuance of the NPDES permit for the Municipality's treatment facility which discharges to Knik Arm of Cook Inlet near Point Woronzof. This preliminary draft permit is being sent to you in recognition of our government-to-government relationship, and in recognition of our trust obligation to tribal governments.

This draft NPDES permit has not yet been issued to the general public. EPA intends to issue a Public Notice announcing the availability of the draft permit and to initiate a public comment period within the next 7-10 days. I will notify you by mail when the Public Notice is issued and also provide the public draft version of this permit along with other supporting documentation. This preliminary version of the draft permit is to provide you advance notice of our proposed action and to allow additional time for your review.

We solicit your input on this action as you deem necessary, either through the public notice procedures or otherwise. Our technical contact on this project is Mike Lidgard of my staff who can be reached at (206) 553-1755 or (800) 424-4372. Please call if you have any questions.

Sincerely,

  
Robert R. Robichaud, Manager  
NPDES Permits Unit

Enclosure



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 10

1200 Sixth Avenue  
Seattle, WA 98101

NOV 1 - 1999

Reply To  
Attn Of: OW-130

Gary Harrison, Chairperson  
Chickaloon Native Village  
P.O. Box 1105  
Chickaloon, Alaska 99674

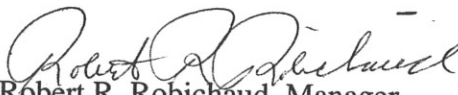
Dear Mr. Harrison:

Enclosed please find a preliminary copy of the draft National Pollutant Discharge Elimination System (NPDES) permit for the Municipality of Anchorage John M. Asplund Water Pollution Control Facility. This proposed action is a reissuance of the NPDES permit for the Municipality's treatment facility which discharges to Knik Arm of Cook Inlet near Point Woronzof. This preliminary draft permit is being sent to you in recognition of our government-to-government relationship, and in recognition of our trust obligation to tribal governments.

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Sincerely,

  
Robert R. Robichaud, Manager  
NPDES Permits Unit

Enclosure





UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 10

1200 Sixth Avenue  
Seattle, WA 98101

NOV 1 - 1999

Reply To  
Attn Of: OW-130

Lee Stephan, CEO  
Native Village of Eklutna  
26339 Eklutna Village Road  
Chugiak, Alaska 99567-6639

Dear Mr. Stephan:

Enclosed please find a preliminary copy of the draft National Pollutant Discharge Elimination System (NPDES) permit for the Municipality of Anchorage John M. Asplund Water Pollution Control Facility. This proposed action is a reissuance of the NPDES permit for the Municipality's treatment facility which discharges to Knik Arm of Cook Inlet near Point Woronzof. This preliminary draft permit is being sent to you in recognition of our government-to-government relationship, and in recognition of our trust obligation to tribal governments.

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Sincerely,

Robert R. Robichaud, Manager  
NPDES Permits Unit

Enclosure



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 10  
1200 Sixth Avenue  
Seattle, WA 98101

NOV 1 - 1999

Reply To  
Attn Of: OW-130

Robert Henrichs, President  
Eyak Tribal Council  
P.O. Box 1388  
Cordova, Alaska 99574


Dear Mr. Henrichs:

Enclosed please find a preliminary copy of the draft National Pollutant Discharge Elimination System (NPDES) permit for the Municipality of Anchorage John M. Asplund Water Pollution Control Facility. This proposed action is a reissuance of the NPDES permit for the Municipality's treatment facility which discharges to Knik Arm of Cook Inlet near Point Woronzof. This preliminary draft permit is being sent to you in recognition of our government-to-government relationship, and in recognition of our trust obligation to tribal governments.

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Sincerely,

  
Robert R. Robichaud, Manager  
NPDES Permits Unit

Enclosure





UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 10

1200 Sixth Avenue  
Seattle, WA 98101

NOV 1 - 1999

Reply To  
Attn Of: OW-130

James Showalter, Chairperson  
Kenaitze Indian Tribe  
P.O. Box 988  
Kenai, Alaska 99611

Dear Mr. Showalter:

Enclosed please find a preliminary copy of the draft National Pollutant Discharge Elimination System (NPDES) permit for the Municipality of Anchorage John M. Asplund Water Pollution Control Facility. This proposed action is a reissuance of the NPDES permit for the Municipality's treatment facility which discharges to Knik Arm of Cook Inlet near Point Woronzof. This preliminary draft permit is being sent to you in recognition of our government-to-government relationship, and in recognition of our trust obligation to tribal governments.

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Sincerely,

A handwritten signature in cursive script, reading "Robert R. Robichaud".

Robert R. Robichaud, Manager  
NPDES Permits Unit

Enclosure



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 10

1200 Sixth Avenue  
Seattle, WA 98101

NOV 1 - 1999

Reply To  
Attn Of: OW-130

Vincent Kvasnikoff, Chief  
Native Village of Nanwalek  
P.O. Box 8028  
Nanwalek, Alaska 99603-6628

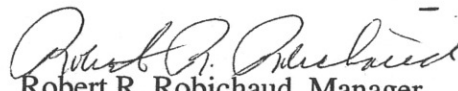
Dear Mr. Kvasnikoff:

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Sincerely,

  
Robert R. Robichaud, Manager  
NPDES Permits Unit

Enclosure





UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 10  
1200 Sixth Avenue  
Seattle, WA 98101

NOV 1 - 1999

Reply To  
Attn Of: OW-130

Jack Kvasnikoff, Acting President  
Ninilchik Traditional Council  
Ninilchik, Alaska 99639

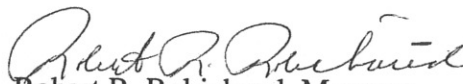
Dear Mr. Kvasnikoff:

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Sincerely,

  
Robert R. Robichaud, Manager  
NPDES Permits Unit

Enclosure



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 10

1200 Sixth Avenue  
Seattle, WA 98101

NOV 1 - 1999

Reply To  
Attn Of: OW-130

Eleanor McMullen, First Chief  
Native Village of Port Graham  
P.O. Box 5510  
Port Graham, Alaska 99603-5510

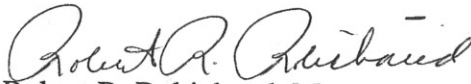
Dear Ms. McMullen:

Enclosed please find a preliminary copy of the draft National Pollutant Discharge Elimination System (NPDES) permit for the Municipality of Anchorage John M. Asplund Water Pollution Control Facility. This proposed action is a reissuance of the NPDES permit for the Municipality's treatment facility which discharges to Knik Arm of Cook Inlet near Point Woronzof. This preliminary draft permit is being sent to you in recognition of our government-to-government relationship, and in recognition of our trust obligation to tribal governments.

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Sincerely,

  
Robert R. Robichaud, Manager  
NPDES Permits Unit

Enclosure





UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 10

1200 Sixth Avenue  
Seattle, WA 98101

NOV 1 - 1999

Reply To  
Attn Of: OW-130

Penny Carty, President  
Native Village of Salamatof  
P.O. Box 2682  
Kenai, Alaska 99611


Dear Ms. Carty:

Enclosed please find a preliminary copy of the draft National Pollutant Discharge Elimination System (NPDES) permit for the Municipality of Anchorage John M. Asplund Water Pollution Control Facility. This proposed action is a reissuance of the NPDES permit for the Municipality's treatment facility which discharges to Knik Arm of Cook Inlet near Point Woronzof. This preliminary draft permit is being sent to you in recognition of our government-to-government relationship, and in recognition of our trust obligation to tribal governments.

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Sincerely,

  
Robert R. Robichaud, Manager  
NPDES Permits Unit

Enclosure



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 10

1200 Sixth Avenue  
Seattle, WA 98101

NOV 1 - 1999

Reply To

Attn Of: OW-130

Rhonda Nordenson, President  
Seldovia Village Tribe  
P.O. Drawer L  
Seldovia, Alaska 99663

Dear Ms. Nordenson:

Enclosed please find a preliminary copy of the draft National Pollutant Discharge Elimination System (NPDES) permit for the Municipality of Anchorage John M. Asplund Water Pollution Control Facility. This proposed action is a reissuance of the NPDES permit for the Municipality's treatment facility which discharges to Knik Arm of Cook Inlet near Point Woronzof. This preliminary draft permit is being sent to you in recognition of our government-to-government relationship, and in recognition of our trust obligation to tribal governments.

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Sincerely,

Robert R. Robichaud, Manager  
NPDES Permits Unit

Enclosure





UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 10

1200 Sixth Avenue  
Seattle, WA 98101

NOV 1 - 1999

Reply To  
Attn Of: OW-130

Gary Kompkoff, President  
Native Village of Tatitlek  
P.O. Box 171  
Tatitlek, Alaska 99677

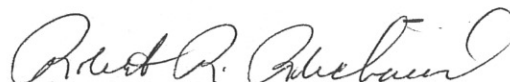
Dear Mr. Kompkoff:

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Sincerely,

  
Robert R. Robichaud, Manager  
NPDES Permits Unit

Enclosure



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 10  
1200 Sixth Avenue  
Seattle, WA 98101

NOV 1 - 1999

Reply To  
Attn Of: OW-130

Peter Merryman, President  
Native Village of Tyonek  
P.O. Box 82009  
Tyonek, Alaska 99682-0009


Dear Mr. Merryman:

Enclosed please find a preliminary copy of the draft National Pollutant Discharge Elimination System (NPDES) permit for the Municipality of Anchorage John M. Asplund Water Pollution Control Facility. This proposed action is a reissuance of the NPDES permit for the Municipality's treatment facility which discharges to Knik Arm of Cook Inlet near Point Woronzof. This preliminary draft permit is being sent to you in recognition of our government-to-government relationship, and in recognition of our trust obligation to tribal governments.

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Robert R. Robichaud, Manager  
NPDES Permits Unit

Enclosure